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JAN 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Dykeman et al.	:	
Application No. 09/633,767	:	DECISION ON PETITION
Filed: 08/07/2000	:	
Attorney Docket No. CH919990018US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2006, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional petition fee is necessary.

The application became abandoned for failure to file a timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action of July 26, 2005, which set a three (3) month shortened statutory period for reply. In the absence of a timely reply, the application became abandoned on October 27, 2005. A Notice of Abandonment was mailed on February 6, 2006.

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the

(2) The petition fee as set forth in 37 CFR 1.17(m);

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, petitioner submitted an amendment in response to the final Office action; however, the examiner found that the amendment did not place the application in condition for allowance. An Advisory Action accompanies this decision.

(1) A Notice of Appeal and appeal fee;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

By mail:

**Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

A handwritten signature in black ink, reading "C. T. Donnell". The signature is written in a cursive, flowing style.

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions